

Board of Vocational Nursing and Psychiatric Technicians

INITIAL STATEMENT OF REASONS

Hearing Date: December 20, 2005

Subject Matter of Proposed Regulations:

Fee Change for the Vocational Nursing Program

Sections Affected:

- | | |
|--------------------------|-----------------|
| (1) Amend Section 2537. | Fees. |
| (2) Amend Section 2537.1 | Provider's Fees |

Fee Change Proposal

Amend Section 2537 Fees

The existing regulations were superseded by a statutory provision that became effective January 1, 2000. Consequently, the fee amounts cited in the *regulation* are obsolete and need to reflect current fees. Additionally, the Board needs to propose a fee change to ensure that sufficient funds are available to implement a new consumer protection law relative to mandatory reporting

History of the Board's Fee Regulations

When the Board of Vocation Nursing was created in 1951, the Legislature established a fixed fee schedule *in the Board's enabling laws*. Specific fees were set forth in Section 2895 of the Business and Professions Code. The Board had no discretion to alter those fees.

In 1952, the Legislature amended Section 2895 and gave the Board the authority to fix fees within dollar amount ranges set out in the statute. Accordingly, the Board promulgated a fee schedule through its regulations. This arrangement continued until January 1, 1991 and January 1, 2000. During those periods, Sections 2892.6 and 2895 were amended to again establish a *statutory* fee schedule. The language requiring the Board to fix its fees in regulation was eliminated. Instead, the Legislature established, by statute, *initial minimum* fees. On January 1, 2000, the Legislature also established statutory fee ranges which gave the Board the discretion to later adjust those fees upward as long as they did not exceed the statutory maximums.

The 1991 and 2000 statutory changes had the effect of superseding or repealing the Board's existing fee regulations which were only valid through December 31, 1990. For example, in January 1991, Section 2895 added a number of fee categories that were not then included in the Board's existing regulations relative to duplicate licenses, endorsement fees and continuing education course providers. The fees for these three fee categories were established in statute. Consequently, those additional statutory fee categories have been assessed by the Board since January 1, 1991 even

though they do not appear in the Board's superseded fee regulations.

Therefore, when assessing the fee changes being proposed by the Board, one has to compare them with the fees listed in Section 2892.6 and 2895 rather than the fees listed in the Board's regulations.

Specific Purpose:

Pursuant to Business & Professions (B&P) Code, section 2854, the Board may adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry out the provisions of these chapters. Additionally, B&P Code, Sections 2892.6 and 2895, specify the current fee assessments and the statutory fee ranges for the Vocational Nursing (VN) Program.

The Vocational Nursing Program needs to amend Sections 2537 & 2537.1 relative to fees and provider fees. The existing regulations cite fee amounts that became obsolete effective December 31, 1990. Since that time, changes to the fee amounts were established in statute on January 1, 1991 and again on January 1, 2000. Consequently, the purpose of this regulatory proposal is to:

- A. Make specific in regulation the current statutory fee assessments delineated in B&P Code, Section 2892.6 and 2895; and
- B. Amend the following revenue categories:
 - Initial License Fees -- From \$100 to \$120
 - Biennial License Renewal Fees -- From \$100 to \$120
 - Delinquent Renewal Fees -- From \$50 to \$60

All of the other fee assessment amounts currently established in statute will remain the same in this regulatory proposal. This regulatory proposal merely clarifies in regulation what is already established by statute.

The fee change is needed to ensure the fiscal solvency of the Vocational Nursing Program and to comply with the budget implementation requirements specified by B&P Code, Section 2878.1 relative to mandatory reporting.

Factual Basis:

The Board is a "special fund agency" that is totally self-supporting. The Board derives all of its revenue from its applicants and licensees through the collection of examination, licensing and renewal fees.

Protection of the health, safety, and welfare of California consumers is the Board's highest priority. To ensure such protection, the Board is authorized to investigate complaints of unprofessional conduct and unsafe, incompetent practice by licensed vocational nurses and psychiatric technicians. Consequently, to implement a new consumer protection statute that became effective January 1, 2004, the Board must have sufficient revenue to support a budget change proposal to fund this new mandate.

The Board worked closely with the Department of Consumer Affairs' Budget Office to determine the minimum amount needed to fund a mandatory reporting budget change proposal. Without a fee change, the Board cannot fiscally support the implementation of this consumer protection law.

Amend Section 2537.1 Provider's Fees

The existing regulations were superseded by a statutory provision that became effective January 1, 1991. Consequently, the fee amounts cited in the *regulation* are no longer accurate.

Specific Purpose:

The proposed regulatory amendments would clarify existing fee amounts, as specified in statute. The fee amounts currently cited in regulation are obsolete.

Factual Basis:

The proposed amendment clarifies existing law.

UNDERLYING DATA

The September 16, 2005, Board Meeting Report recommending the approval of the Board's fee change proposal for the Vocational Nursing Program.

BUSINESS IMPACT

The regulations will not have a significant adverse economic impact on businesses.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The regulations do not mandate the use of special technologies or equipment.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative to the regulations would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

(10/18/2005)